



Rhode Island Executive Office of Health and Human Services  
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September 27, 2016

Docket # 16-2028  
Hearing Date: August 9, 2016



## **ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s), rule(s), and regulation(s) were the matters before the hearing:

**THE DHS RULES AND REGULATIONS: Supplemental Nutrition Assistance Program**  
**SECTION: 1022 CLAIMS AGAINST HOUSEHOLDS**  
**SECTION: 1024 COLLECTIONS OF CLAIMS**

**CODE OF FEDERAL REGULATIONS**  
**7 CFR 273.18 - CLAIMS AGAINST HOUSEHOLDS**

The facts of your case, the rule(s) regulations(s), and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant), your Legal representative, and Agency representatives Joan Baron, Zulma Garcia, and the SNAP Corrective Action Unit.

Present at the hearing were: your Legal representative and Agency representative Joan Baron.

**ISSUE:** Was there an overissuance/overpayment of SNAP (Supplemental Nutrition Assistance Program) benefits to the appellant for which repayment is now required?



**RULES AND REGULATIONS:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services (DHS) Rules and Regulations and the Code of Federal Regulations (CFRs).

**APPEAL RIGHTS:**

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

**DISCUSSION OF THE EVIDENCE:****The Agency representative testified:**

- On May 19, 2015, the DHS Collections Unit received a claim referral from the DHS Providence Office.
- DHS had received information that the appellant was newly employed at a store.
- The appellant worked at the store from January 19, 2015 through May 2015.
- The appellant's spouse started working for a Temp Agency on March 2, 2015.
- As a SNAP Simplified Reporter, household income must be reported at the time of application and at the time of Interim reporting. In the time periods in between, the household only has to report a change of income if the income goes over 130% of the Federal Poverty Level.
- The appellant submitted an Interim on March 3, 2015 and did report employment and wages.
- Both the appellant's and her spouse's wages were used to calculate the overpayment.
- Based on the household's income, the household did not qualify for any of the \$511.00 in SNAP benefits received in April 2015.
- The Agency failed to adjust the household's SNAP benefits for the month of April 2015.
- The Agency is audited all the time so the Federal Government knows how long it is taking the Agency to establish some claims.



- She believes the Agency is allowed to have 10% of their claims be untimely.

**The appellant's Legal Representative presented:**

- If the appellant's spouse became employed on March 2, 2015, those wages would not have been available to report during the interim reporting.
- It appears, based on when the appellant's Interim Report was received by the Agency, that it was sent to Agency before her spouse was even hired.
- If the appellant's spouse was hired on March 2, 2015, and clients have ten days to report changes, then the spouse's income may not even be applicable to the April Snap benefits.
- Since any overpayment was due to an Agency error and not the appellant's failure to report income, we need to see the Interim Report to see what the appellant reported in order to determine the actual amount of the overpayment.
- If the appellant reported only her own wages on the Interim Report, the calculation of the household's April SNAP benefits would have been based solely on those wages.
- The DHS field office sent the claim referral to the CCRU on May 19, 2015, so the Agency had to have discovered the overpayment before that date.
- The claim was not established until eleven (11) months later, on April 4, 2016, when the CCRU notified the family of the overpayment.
- Per the Federal regulations, specifically 7CFR 273.18(d)(1), a claim must be established before the last date of the quarter following the quarter in which the overpayment was discovered.
- Time frames are generally established to protect an individual's rights, including the right to due process, because delays undermine a household's ability to defend itself.
- The Agency failed to establish this claim within the timeframes established by the Federal regulations. Therefore the claim is stale and the Agency should be prevented from going forward to collect on that basis.



- If there is an allowable Federal exception to the time frames, then that would need to be verified.

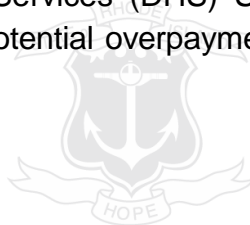
### **FINDINGS OF FACT:**

- On April 4, 2016, the Agency, through the Claims, Collections, and Recovery Unit (CCRU), sent the appellant a Supplemental Nutrition Assistance Program (SNAP) Demand Letter for an overissuance of SNAP benefits caused by an Agency error.
- A timely request for hearing submitted on behalf of the appellant was received by the Agency on June 30, 2016 and was received by the Executive Office of Health and Human Services (EOHHS) Appeal Office on July 8, 2016.
- An Administrative Hearing was convened on August 9, 2016.
- The Agency was given until August 19, 2016 to submit the appellant's Interim Report document, as well as a final written response/argument.
- Appellant's Legal Representative was given until August 26, 2016 to submit a final written argument.
- The appellant reported her employment and wages on an Interim Report which was received by the Agency on March 2, 2015.
- The Department of Human Services (DHS) Claims, Collections, and Recovery Unit (CCRU) received a SNAP claim referral from the DHS Providence Office on May 19, 2015.
- The Agency failed to consider the appellant's reported income in a timely manner, causing the appellant to receive an overpayment of SNAP benefits, in the amount of \$201.00, for the month of April 2015.

### **CONCLUSION:**

The issue to be decided is whether there was an overissuance/overpayment of SNAP (Supplemental Nutrition Assistance Program) benefits to the appellant for which repayment is now required.

Per the Department of Human Services (DHS) SNAP rules and regulations, a claim referral is the identification of a potential overpayment that needs to be investigated and



established as a claim by the Claims, Collections, Recovery (CCR)/Fraud Unit. Per the DHS rules and regulations, a claim is considered discovered as of the date the Agency receives all of the documentation necessary to calculate a claim. A claim is considered established as of the date the CCRU mails a letter titled "SNAP Demand Letter for Overissuance" to the household. Per the DHS regulations, an established SNAP claim for overissuance or overpayment, even those caused by an Agency error, is a Federal debt and is required to be repaid by the recipient, as per Federal rules governing Federal debts and as outlined in the DHS SNAP regulations.

The Department of Human Services (DHS) Claims, Collections, and Recovery Unit (CCRU) established a SNAP claim against the appellant on April 4, 2016 with the mailing of a Supplemental Nutrition Assistance Program (SNAP) Demand Letter for Overissuance to the appellant, informing her that due to an Agency error, her household received \$511.00 more in SNAP benefits than she was eligible to receive for the month of April 2015.

There is no dispute that the Agency failed to consider the appellant's reported income in a timely manner, thereby causing an overpayment of SNAP benefits to the appellant for the month of April 2015. The Agency conceded during the appeal process that the amount of the SNAP overissuance had been miscalculated and both parties agree that the amount of the SNAP overissuance for April 2015 is \$201.00; not the previously calculated \$511.00. Despite such agreement, the appellant's Legal representative argues that the Agency cannot collect the SNAP overpayment from the appellant because the Agency failed to process or establish the claim within the time frame required by federal law as stipulated in 7 CFR 273.18(d)(1). The Agency does not dispute that the claim was not established within the time frame outlined in the federal regulation, but argues that not only is the Agency allowed to establish up to 10% of SNAP claims late, the Federal regulation requires the Agency to establish all claims, regardless of whether they can do so within the stipulated federal timeframes.

Per DHS SNAP regulations, specifically 1024.10, the Agency must initiate collection action against all Agency error claims unless the claim is collected through tax offset; the amount of the claim is less than one hundred and twenty-five (\$125.00) and cannot be recovered by reducing the household's allotment; or the Agency has documentation showing that the household cannot be located. While the Federal regulation, specifically 7 CFR 273.18(d)(1), dictates how a State Agency must manage SNAP claim referrals, specifically that the Agency must "establish a claim before the last day of the quarter following the quarter in which an overpayment or trafficking incident was discovered" and



must ensure that “no less than 90 percent of all claim referrals are either established or disposed of according to this time frame” it does not state what would or should happen if such criteria were not met by the Agency. Not only does 7 CFR 273.18(d)(1) fail to stipulate that a claim is invalid and/or cannot be collected if the Agency fails to meet these timeframes and/or percentages, 7 CFR 273.18(d)(3) specifically requires DHS to establish claims even if DHS cannot do so within the specified time frames. 7 CFR 273.18(e)(1) further stipulates that DHS must initiate collection action on all claims unless the claim is not cost effective as outlined in 7 CFR 273.18(e)(2)

In summary, the DHS SNAP regulations are consistent with the Federal SNAP regulations as they pertain to claims of SNAP overissuance. Regardless of the amount of time that elapsed between the Agency discovering that an overissuance of SNAP benefits to the appellant occurred in April 2015 and the Agency establishing the claim by issuing a SNAP Demand Letter to the appellant on April 4, 2016, and regardless of whether the Agency exceeded the 10% threshold for establishing late claims, both State and Federal regulations dictate that the overissued SNAP benefits must be collected/recouped.

After a careful review of both State and Federal SNAP rules and regulations, as well as the evidence and testimony given, this Appeals Officer finds that there was an over issuance/overpayment of SNAP benefits to the appellant in April 2015 in the amount of \$201.00, for which repayment is now required. The appellant’s request for relief is denied.

Debra L. DeStefano  
Appeals Officer



## APPENDIX



## **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)** **(Pertinent excerpts)**

### **1022 (7 CFR 273.18) CLAIMS AGAINST HOUSEHOLDS**

#### **1022.03 (7 CFR 273.18) CLAIM DEFINED**

A recipient claim is an amount owed because of:

- \* Benefits that are overpaid, or
- \* Benefits that are trafficked. Trafficking is defined as buying or selling of benefit instruments such as EBT cards for cash or consideration other than eligible food.

This claim is a Federal debt subject to rules governing Federal debts. DHS must establish and collect the claim according to the following rules and those located in policy Section 1024.

#### **1022.05 (7 CFR 273.18) ESTABLISHING CLAIMS AGAINST HOUSEHOLDS**

A claim referral is the identification of a potential overpayment that needs to be investigated and established as a claim by the CCR/Fraud Unit.  
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#### **1022.10 (7 CFR 273.18) INADVERTENT HOUSEHOLD/AGENCY ERROR CLAIM**

A claim is established against a household for an overissuance which was caused by a misunderstanding or an inadvertent error on the part of the household, including continuation of benefits pending a hearing decision; or is the result of an agency error.

Claims include only those months of overissuance that have occurred within twelve (12) months of overissuance prior to the date the agency becomes aware of the overissuance.

##### **1022.10.10 (7 CFR 273.18) Agency Error Claim**

Instances of agency error which may result in a claim include, but are not limited to, the following:

- \* The agency failed to take prompt action on a change reported by the household;





- \* The agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
- \* The agency continued to provide a household SNAP allotments after its certification period had expired without benefit of a reapplication determination; or
- \* The agency failed to provide a household a reduced level of SNAP benefits because its cash assistance amount changed.

### **1022.10.20 (7 CFR 273.18) Determining Initial Month of Overissuance**

In all cases involving inadvertent household error or agency error claims, the first month of overissuance is the month the change would have been effective had it been reported in a timely manner with allowance for the advance notice period. In no instance, however, is the first month of overissuance any later than two (2) months from the month in which the change in household circumstances occurred. The agency representative determines the initial month of overissuance as follows:

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#### **Households Subject to Simplified Reporting Requirements**

If the household is a simplified reporting household and the change which resulted in an overissuance of SNAP benefits occurred during the certification period and was not required to be reported, according to the simplified reporting requirements as outlined in section 1018.05.05.03, the overissuance shall be calculated from the date of recertification, which is the time the household was required to report the change.

### **(7 CFR 273.18) Amount of the Claim Referral**

After excluding those months which are more than twelve (12) months prior to the date the overissuance of benefits was discovered, the field representative determines the correct amount of SNAP benefits the household should have received for those months the household participated while the overissuance was in effect.

The actual steps for calculating a claim are:

- \* Determine the correct amount of benefits for each month that a household received an overpayment.
- \* Do NOT apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim.
- \* Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.



- \* Reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account. The difference is the amount of the claim.

The agency representative determines that amount for active cases by entering the correct information in the appropriate months in STAT to reflect the actual income, resources, or household circumstances during the period of the overpayment. The agency representative records the circumstances pertaining to the overissuance in the case notes.

The agency representative refers the overpayment to CCR/Fraud and documents the reason for the overpayment, the time period and amount of the overpayment, and enters a reference to the above-mentioned case note entry. The CCR/Fraud Unit then reviews each claim and institutes appropriate collection action. Before initiating collection action, the CCR Unit verifies, as appropriate, that the SNAP benefits were utilized. If the benefits were utilized, collection action is initiated as outlined in Section 1024.

## **1022.25 RESPONSIBILITY OF THE CCR/FRAUD UNIT**

Upon receipt of an electronic referral of an overpayment of SNAP benefits, the CCR/Fraud Unit representative determines whether the referral is due to agency error, inadvertent household error, or appears to meet the definition of intentional program violation (IPV). As appropriate, prior to any investigation, the Unit verifies that the benefit was used. The amount of the claim is calculated based on the referral. The date that the agency receives all of the documentation necessary to calculate a claim is known as the discovery date. The discovery date may be prior to or equal to the established date.

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## **1024 (7CFR273.18) COLLECTION OF CLAIMS**

### **1024.05 (7CFR273.18) INTRODUCTION**

All actions pertaining to the collection of outstanding claims in the Supplemental Nutrition Assistance Program (SNAP) are handled by the Collections, Claims and Recoveries/Fraud (CCR/Fraud) Unit of the Department of Human Services.

## **(7CFR273.18) CRITERIA FOR COLLECTION ACTION**

The agency must initiate collection action against the household on all inadvertent household or agency error claim referrals unless the claim is collected through offset, or one of the following conditions applies:



- \* The amount of the claim referral is less than one hundred twenty-five dollars (\$125), and the claim cannot be recovered by reducing the household's allotment. This threshold does NOT apply for overpayments discovered through the quality control system.
- \* The agency has documentation which shows that the household cannot be located.

The agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the agency determines collection action may prejudice the case.

## **1024.20 (7 CFR 273.18) INITIATING THE COLLECTION OF CLAIMS**

A written demand letter entitled, "Demand Letter For Overpayment" is mailed or provided to the household by the CCR/Fraud Unit.

The claim is considered established as of the date of the initial demand letter or written notification.

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# **CODE OF FEDERAL REGULATIONS**

(pertinent excerpts)

## **Title 7 Agriculture**

### **Part 273 Certification of Eligible Households**

#### **273.18 Claims against households**

(d) *Claim referral management.*

(1) As a State agency, you		
must . . .	and you . . .	unless . . .
establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered	will ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame	you develop and use your own standards and procedures that have been approved by us (see paragraph (d)(2) of this section).



(2) Instead of using the standard in paragraph (d)(1) of this section, you may opt to develop and follow your own plan for the efficient and effective management of claim referrals.

(i) This plan must be approved by us.

(ii) At a minimum, this plan must include:

(A) Justification as to why your standards and procedures will be more efficient and effective than our claim referral standard;

(B) Procedures for the detection and referral of potential overpayments or trafficking violations;

(C) Time frames and procedures for tracking claim referrals through date of discovery to date of establishment;

(D) A description of the process to ensure that these time frames are being met;

(E) Any special procedures and time frames for IPV referrals; and

(F) A procedure to track and follow-up on IPV claim referrals when these referrals are referred for prosecutorial or similar action.

(3) States must establish claims even if they cannot be established within the timeframes outlined under paragraph (d) of this section.

(e) *Initiating collection action and managing claims—(1) Applicability.* State agencies must begin collection action on all claims unless the conditions under paragraph (e)(2) of this section apply.

(2) *Pre-establishment cost effectiveness determination.* A State agency may opt not to establish and subsequently collect an overpayment that is not cost effective. The following is our cost-effectiveness policy for State agencies:

(i) You may follow your own cost effectiveness plan and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is not cost effective to pursue	you do not have a cost-effectiveness plan approved by us	you already established the claim or discovered the overpayment in a quality control review.
(ii) Or you may follow the FNS threshold and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is \$125 or less	the household is currently participating in the Program	you already established the claim or discovered the overpayment in a quality control review.



### **NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

